United Nations S/2004/931

Security Council

Distr.: General
30 November 2004
English
Original: French

Letter dated 29 November 2004 from the Permanent Representative of Côte d'Ivoire to the United Nations addressed to the President of the Security Council

The recent developments in Côte d'Ivoire from 4 to 10 November 2004 called for a prompt dissemination of the related facts, constant and close monitoring of the situation as it evolved, restraint while awaiting the outcome of ongoing diplomatic efforts, attending to the wounded and paying silent tribute to the victims.

To date, the last two concerns have been accorded priority and I have the honour to provide herewith the Ivorian Government's version of events and the rational, underlying the initiatives it has taken in that regard.

To fully appreciate the political and military developments in Côte d'Ivoire, it is appropriate to put them in proper context. Such context includes:

- The Ivorian Constitution;
- The Linas-Marcoussis and Accra II and III Agreements;
- The defence and cooperation agreements between France and Côte d'Ivoire;
- The Protocol on Non-Aggression and the Protocol relating to Mutual Assistance on Defence annexed to the treaty establishing the Economic Community of West African States (ECOWAS);
- The agreement between the United Nations and Côte d'Ivoire on the status of the United Nations Operation in Côte d'Ivoire (ONUCI);
- Various Security Council resolutions on the situation in Côte d'Ivoire;
- The agreement between ONUCI and the detachment of French forces in Côte d'Ivoire (Force Licorne) and;
- The Ivorian code of administrative procedure.

Under the Accra III Agreement, "the Ivorian political forces formulated proposals on how to overcome the obstacles that have so far impeded full implementation of the Linas-Marcoussis and Accra II agreements and build consensus on the key issues confronting the Ivorian peace process (paragraph 3)." They "reiterated their commitment to the principles and programme of Government contained in the Linas-Marcoussis and Accra II agreements".

"They also reaffirmed their determination to proceed with the full and unconditional implementation of these Agreements (paragraph 4). They reiterated

their commitment to ensuring the support of their respective members of the National Assembly for the adoption, in accordance with the spirit and letter of the Linas-Marcoussis Agreement, of all legal reforms by the end of August 2004, as stipulated in the Agreement (paragraph 8). The parties commit themselves to the commencement of DDR by 15 October 2004."

"The (DDR) process will be conducted on the basis of a specific timetable, in accordance with the relevant provisions of the Linas-Marcoussis Agreement and the decisions adopted in this regard in Grand Bassam and Yamoussoukro. The DDR process shall include all paramilitary and militia groups. It was also agreed that the restructuring of the defence and security forces should be undertaken in accordance with the road map delineated at Grand Bassam (paragraph 9)."

Furthermore, under the relevant provisions of the Ivorian code of administrative procedure, legislation adopted and published is only applicable if the State, especially through the civil service, judiciary and prisons authority effectively exercises authority throughout the country. In other words, the restoration of such authority is a prerequisite for laws to be equally enforceable for all Ivorian citizens.

State authority is not effective and is yet to become so in the northern part of the country, which is still under the control of the Forces Nouvelles (former rebels) who are still armed. Such control can be possible only after all armed groups, including those of the Forces Nouvelles groups, have been disarmed and demobilized. It is becoming a matter of utmost urgency for the Forces Nouvelles to become a lawfully recognized Ivorian political entity.

With regard to the first paragraph of article 127 of the Ivorian Constitution, it provides that "no amendment proceedings shall be undertaken or pursued while the integrity of the territory is undermined".

Therefore, the Forces Nouvelles armed groups must also be disarmed and demobilized before initiating the constitutional amendment procedures provided for by the Linas-Marcoussis and Accra II and III agreements, since the restoration of territorial integrity is a prerequisite. It is therefore absolutely necessary to complete or at least carry out the key phases of this process before initiating the constitutional amendment proceedings which would complete the proceedings for "all legal reforms envisaged under the Linas-Marcoussis Agreement in accordance with its letter and spirit" and in accordance with the letter and spirit of the Ivorian Constitution.

Furthermore, the prompt disarmament and demobilization of all armed groups would allow them to register in time as political parties and to participate in future elections and allow those of their members who qualify for service in the army and police to be absorbed into the restructured national defence and security forces with full civic rights in accordance with the provisions of the relevant rules and regulations, including the statutes governing such forces.

It was against that clear background that the Security Council issued its call of 27 September 2004 for the prompt and unconditional disarmament of armed groups throughout the national territory.

As a result of the looting of resources in the northern part of the country, the subsequent supply and strengthening of the former rebels' war effort, the illicit regional trafficking in small arms and light weapons and their ammunition, the

increased suffering of people in the northern part of the country, the steady deterioration in the national and subregional economy and subsequent deterioration in the living conditions of the people of West Africa, the shortening of the time for the preparation of the 2005 general elections, the inappropriate dilatory tactics engaged in by most Forces Nouvelles ministers, their declaration on 28 October 2004 in Bamako that disarmament was no longer on the agenda and that the Linas-Marcoussis Agreement was null and void, and the failure of mediation efforts to guarantee sustained continuity of Government activity, force had to be used to bring the rebels back within the authority of the Republic and to the negotiating table in order to meet the timetable for the preparation of the October 2005 general elections.

The military operations undertaken with that sole objective in view were about to succeed when shots, presumably air to ground, whose origin is still unclear, reportedly hit a Licorne force camp in Bouaké, killing, according to the initial French estimates released, eight French soldiers and a United States citizen, and injuring 38 other French soldiers.

The President of the Republic, the Government of national reconciliation and the people of Côte d'Ivoire wish to pay their respects to the deceased, renew their condolences to the bereaved families and wish the injured a speedy recovery.

However, Côte d'Ivoire finds it unfortunate that it was not given the chance to pay tribute to the French soldiers and the presumed United States citizen who died for Côte d'Ivoire, on its soil, or to help to provide first aid to the wounded.

My Government is also concerned that no further mention was made of the United States citizen initially reported among the dead. This changing French account showed, inter alia, that France failed to act deliberately during the events in Bouaké on 6 November 2004 and that there is a need for the United Nations to establish the facts surrounding the accident and the subsequent damage it caused.

Côte d'Ivoire further notes that the pictures published in the French press of the buildings allegedly bombed by the Ivorian defence and security forces are in fact pictures of a Forces Nouvelles military camp.

In a bid to ensure that the truth regarding these facts is told as soon as possible and that those responsible are identified in an unbiased manner, Côte d'Ivoire requests that an international independent inquiry be conducted into that accident.

Without informing or consulting the Ivorian authorities, members of the Licorne force, presumably on the official and direct order of the President of the French Republic, proceeded to destroy both military and civilian aircraft of the Ivorian State, including hacking some of them to pieces. Even the two personal aircraft of the President of the Republic of Côte d'Ivoire, exclusively for civilian use, they too symbols of Ivorian sovereignty, were not spared from the fury of the Licorne troops assigned to execute those reprisals. Those reprisals, reminiscent of times gone by, were carried out with utter disregard for the long standing defence and cooperation agreements signed between France and Côte d'Ivoire, which were still in force. The Licorne forces did not spare even the presidential palaces of Yamoussoukro and Abidjan Plateau, which were attacked with mortar fire and helicopter gunships; a civilian aircraft on the ground and an anti-aircraft battery were destroyed, killing the two people manning the battery.

When the people of Abidjan heard the news about the excessive French action ostensibly carried out in retaliation against Ivorian aircraft, they took to the streets of Abidjan, the economic capital, in protest against such deliberate attacks on the symbols of Ivorian State sovereignty, that France described as legitimate reprisals.

French helicopters fired live ammunition into the crowd gathered at Abidjan airport, the approach to the two bridges and to the camp of the forty-third French marine infantry battalion (BIMA). Events then degenerated into chaos, which France quickly blamed on President Laurent Gbagbo.

The defence and security forces immediately required to maintain law and order in the town were unable to contain the crowd, including preventing looting and other criminal activities by any spontaneous outpouring of a large crowd, all the more since the crowd's ranks were swelled by nearly four thousand common criminals who had surprisingly escaped from Abidjan's main prison (Maison d'arrêt et de correction d'Abidjan, MACA) with the arms and ammunition of the prison guards.

White people, mostly French nationals and certain French interests, unfortunately incurred the wrath of some demonstrators and were the targets of criminal activities.

In a bid ostensibly to protect French and foreign nationals whom they described as being in danger, members of the Licorne force, acting with no cooperation or coordination with the national defence and security forces, opened fire with live ammunition on all gatherings of people in Abidjan, which it characterized as dealing with looters. It killed in cold blood without arresting any alleged criminal. Yet, if the French forces had taken such requisite precautionary police action, instead of carrying out summary executions in our country during those fateful three days, then they could have been said to have acted lawfully in so describing the actions of the demonstrators, allowing the appropriate legal action to be taken. At the time, France said it acted in self-defence, the grounds and justification of which are still unclear and should be determined by an independent international inquiry conducted under United Nations authority.

The French force went as far as to assemble in Abidjan all its armoured combat units deployed in Côte d'Ivoire, which, however, are neither police vehicles nor lawful crowd control equipment. Furthermore, the troops manning them lacked training and expertise in law enforcement.

The Licorne force definitely adopted a counterinsurgency posture, normally taken in emergency circumstances in both France and Côte d'Ivoire under which law enforcement power devolves to the military. By thus substituting itself for the Ivorian State, France exceeded the mandate granted by the Security Council. Here again, an international inquiry is necessary to determine whether that independent operation was consistent with the spirit and letter of the United Nations mandate. However, the excessive autonomy of the Licorne force in Côte d'Ivoire indicates that the time has come to incorporate it immediately into ONUCI and for it be used in accordance with the agreement between the United Nations and Côte d'Ivoire on the status of the United Nations Operation in Côte d'Ivoire (ONUCI).

On Sunday, 7 November 2004, the French soldiers opened fire without any warning on any movement along the corridors along their route from Duékoué, Dibboly and Guessabo in the west and Sinfra and Tiébissou in the centre, killing

nine people, including three soldiers, a policeman and a customs officer, while three civilians and a soldier were reported missing and dozens of people, who are now being identified, were wounded.

The occupation of Abidjan international airport at Port-Bouet by the Licorne force and the eviction by that force of Ivorian airport-based gendarmerie, police and customs units, its sealing off of the Hôtel Ivoire at Cocody and its firing from helicopters of live bullets at demonstrators at the airport and on the de Gaulle and Houphouët-Boigny bridges further incensed demonstrators.

Demonstrators massed at the Hôtel Ivoire and at the entrance to the Head of State's residence less than a kilometre away from that hotel, forming a human shield. Indeed, as it would later transpire, they believed that France intended to remove President Laurent Gbagbo and replace him with Mr. Alassane Ouattara, who had reportedly been brought to the Hôtel Ivoire, access to which was barred by the Licorne force.

Despite President Gbagbo's appeal for calm broadcast over both the radio and television on Sunday, 7 November 2004, and despite the presence of elements of the national defence and security forces deployed to maintain law and order at the Hôtel Ivoire (and here note should be taken of the efforts of the head of the gendarmerie detachment responsible for maintenance of law and order to coordinate matters with the Licorne force), the Licorne force opened fire on demonstrators who were clearly unarmed and respectful of the French operation, killing seven people, including two Ivorian gendarmes involved in maintaining law and order in the area and wounding hundreds of people. Shock and pandemonium reigned in Abidjan and the flow of people to the area of operation of the Licorne force could no longer be contained.

When the French army finally withdrew from the esplanade of the Hôtel Ivoire, following appeals for them to do so from political and religious leaders, order was immediately restored in Abidjan. However, the Licorne force withdrew, blaming the unarmed demonstrators and members of the Ivorian defence forces present at the scene for the shooting, and leaving in their wake 64 dead and more than 1,300 wounded. Furthermore, documents belonging to French sharpshooters were found on the sixth floor of the Hôtel Ivoire.

An international independent inquiry must be conducted in order to clear up the circumstances surrounding the shooting and identify those responsible.

The Licorne force, which was initially called in by the President of Côte d'Ivoire pursuant to the defence and cooperation agreements between France and Côte d'Ivoire, operates in the country solely under a United Nations, ONUCI, mandate. Furthermore, the contradiction between the ONUCI mandate as an interposition force and the duty to provide assistance to the Ivorian State under the defence and cooperation agreement between France and Côte d'Ivoire, also makes it imperative to place the Licorne force under the command of the ONUCI military component. So does the fact that the international legal interposition mandate of the Security Council takes precedence over the defence of the State of Côte d'Ivoire by the Licorne force under the aforementioned agreement between France and Côte d'Ivoire.

Accordingly, the Security Council should review as soon as possible its resolution 1528 (2004) and subsequent resolutions and presidential statements.

United Nations peacekeeping missions are based on the principle that the presence in the mission area of an impartial force reduces tensions between belligerents and creates a framework for negotiations to prosper. My Government urges that the command and actions of the United Nations interposition force in Côte d'Ivoire should be formally unified.

I shall be grateful for any steps which you may see fit to take to have this letter issued as a document of the Security Council.

(*Signed*) Philippe **Djangoné-Bi**
Ambassador
Permanent Representative

United Nations S/2004/932

Security Council

Distr.: General
30 November 2004

Original: English

Letter dated 17 November 2004 from the Secretary-General addressed to the President of the Security Council

As indicated in my report to the Security Council on the United Nations Interim Administration Mission in Kosovo dated 30 July 2004 (S/2004/613), following the events of March, I asked Ambassador Kai Eide (Norway) to conduct a comprehensive review of the policies and practices of all actors in Kosovo and to prepare recommendations as a basis for further thinking on the way forward, in accordance with Security Council resolution 1244 (1999). Ambassador Eide has presented his report to me, which I conveyed to you in my letter of 6 August 2004 (see annex I).

I stated in my letter that I was considering the recommendations set out in the report and that, in due course, I would revert to the Council with my recommendations after appropriate consultations. Following those consultations, I would now like to convey to you my recommendations for the way forward in Kosovo, which are attached to the present letter (see annex II).

I should be grateful if you would bring the present letter and its annexes to the attention of the members of the Security Council.

(*Signed*) Kofi A. **Annan**

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Annex I

Letter dated 6 August 2004 from the Secretary-General addressed to the President of the Security Council

As indicated in my report to the Security Council on the United Nations Interim Administration Mission in Kosovo dated 30 July 2004 (S/2004/613), following the events of March, I asked Ambassador Kai Eide (Norway) to conduct a comprehensive review of the policies and practices of all actors in Kosovo and to prepare recommendations as a basis for further thinking on the way forward, in accordance with Security Council resolution 1244 (1999). Ambassador Eide has presented his report to me, which is attached to the present letter (see enclosure).

I am considering the recommendations contained in the report. In due course, I will revert to the Council with my recommendations after appropriate consultations, including with my incoming Special Representative for Kosovo, Søren Jessen-Petersen.

I would like to take this opportunity to put on record my appreciation to Ambassador Eide for taking on this assignment and producing an excellent report for my consideration.

I should be grateful if you would bring the report to the attention of the members of the Security Council.

(*Signed*) Kofi A. **Annan**

Enclosure

Report on the situation in Kosovo

Summary and recommendations

Summary

Kosovo (Serbia and Montenegro) is characterized by growing dissatisfaction and frustration. Seen from the Kosovo Albanian majority, the main cause is not of an inter-ethnic nature, but stems from what is rightly seen as a serious lack of economic opportunities and an absence of a clear political perspective. As a Kosovo Albanian student said, "you gave us freedom, but not a future". The Kosovo Serbs believe — also rightly — that they are victims of a campaign to reduce their presence in Kosovo to a scattered rural population.

The international community was taken by surprise by the violence in March. It had failed to read the mood in the population and to understand the depth of the dissatisfaction of the majority and the vulnerability of the minorities. The international community, with the United Nations Interim Administration Mission in Kosovo (UNMIK) in the lead, gave an impression of being in disarray, without direction and internal cohesion. UNMIK has become the main target of criticism from all sides, although it has also been a victim of the lack of a clear political perspective.

However, during our visits, positive trends were noticed. This new tone has come as a result of clear messages given by the international community. The Kosovo Albanians now seem to accept that they did "too little, too late" to stem the violence that occurred in March. They understand that this violence damaged their reputation and support in the international community. Now, they must make a serious effort to reassure the international community and the Serbs that they will act to repair the damage caused by the violence as well as develop meaningful local government, giving the Serbs more authority in areas where they have a more concentrated population, and mechanisms enabling them to protect and promote their identity. If implemented, these commitments would facilitate the return of those who fled and the return of the Serb leaders to the political process. The Serbs understand that they cannot and should not remain outside the political process when their Kosovo Albanian counterparts are seen to take steps to accommodate their demands. The Serbs therefore seem more willing to participate in common efforts, although a decision to take part in elections and return to the Provisional Institutions of Self-Government has not been made. Remaining outside would also cost them support they now enjoy from the international community. The joint declaration signed on 14 July reflects these positive trends. In these efforts, the interests of other minorities must also be borne in mind.

The first test we now face is to maintain the strong pressure required to bring the work forward in the above-mentioned priority areas. If there is insufficient progress, it will be very hard — if not impossible — to repair the damage caused by the March violence. It will be extremely difficult for the international community to regain the initiative and the credibility it has lost. Even more important, it will be hard for the Kosovo Albanian leaders to repair their image and for the Kosovo Serbs to return gradually to the political processes and participate in the October elections. The deadlines are indeed very tight.

The second test relates to managing the interim — including increased transfer of competencies and authority to the institutions of Kosovo and a more dynamic standards policy. The question of transfer represents a key demand from the Kosovo Albanian side. The international community should be forthcoming, transferring competencies where possible and involving the Kosovo Provisional Institutions as much as possible in core reserved areas in order to enhance a sense of ownership and transfer of relevant experience.

An ambitious policy of transfer should, however, be accompanied by two other critical elements: the new Special Representative of the Secretary-General should be prepared to introduce a robust policy of interventions and sanctions in cases of inappropriate performance. Furthermore, a more ambitious and systematic policy of capacity-building should be implemented.

The current "standards before status" policy lacks credibility. The implementation of a highly ambitious set of standards before status talks begins is seen as unachievable. The implementation of the standards should be seen as an integral part of a wider policy and continue to guide efforts to bring Kosovo closer to European standards even after the conclusion of future status negotiations. This would enable all to concentrate attention on a set of more immediate priorities reflecting urgent requirements, coupled with a longer-term perspective. It would increase the chances of having met certain key conditions when future status talks begin. These priorities must be achievable and the results visible, leading to concrete results on the ground, a better climate between the majority and the minorities and greater credibility for the international community. A priority-based and realistic standards policy would facilitate our efforts to mobilize pressure and send a more convincing message to all of what is expected of them. A series of standards reviews under the leadership of the Special Representative of the Secretary-General, and with the full participation of the Contact Group, could be held before the scheduled mid-2005 review.

The third test relates to preparations for future status discussions. They cannot be postponed much longer. There will not be any ideal moment for starting such preparations — not even a good moment. However, while a gradual reduction of the international presence in Kosovo can be expected, the economic situation will continue to worsen and the frustrations and dissatisfaction inside Kosovo will grow. Raising the future status question soon seems — on balance — to be the better option and is probably inevitable.

Therefore, the United Nations should initiate its own thinking with key Member States. Some key considerations for thinking on future status are outlined in the main part of the report.

The international community should intensify its dialogue with Belgrade. The authorities in Belgrade have a sense of not being sufficiently included. That impression should be corrected as soon as possible. Belgrade will, of course, be one of the parties to the future status negotiations. Belgrade's support and participation will also be a key to success at each and every stage of the process.

A restructuring of UNMIK is unavoidable, to re-energize the Mission, bring its various components more closely together and concentrate on key priorities in a more organized way. Particular attention should at this stage be given to highlighting community issues, reflecting pressing challenges. However, a complete

overhaul would at this stage be counterproductive, leading to more internal discussion and confusion at a time when a concentrated effort on urgent priority issues of substance is required. An immediate streamlining and realigning of UNMIK — maintaining the pillar structure — should be undertaken first, to be followed by preparations for a major restructuring, which would have to take place next year and be prepared in early 2005. With the future status question approaching, the United Nations should prepare for a gradual reduction of its presence to be accompanied by a parallel increase in the European Union and a continuation of the presence of the Organization for Security and Cooperation in Europe (OSCE). The pillar structure would then be eliminated. Handing over the responsibility for the police to the European Union or OSCE as part of the major restructuring should be discussed early.

The international community faces important challenges in several stages: the immediate and urgent requirements following the March violence; the interim challenges of revising the "standards before status" policy and transferring greater competencies; the critical phase of preparing for future status negotiations; and finally, for supporting the outcome of such negotiations. It is obvious that these challenges — many of them having to be dealt with in parallel — will require an integrated, comprehensive strategic plan. It will have to be based on commitments from all major international organizations and Member States involved. UNMIK will not be able to mobilize the strength and credibility required for carrying out its responsibilities without strong support from the international community at large.

A more concerted effort is therefore urgently required to ensure that the international community can regain the initiative and maintain it through 2005. A coordinated strategy will have to be elaborated. A comprehensive and cohesive engagement from the European Union, in the political as well as the economic areas, would be of great importance. A set of economic and political incentives and disincentives will have to be formulated. OSCE and the Council of Europe should play prominent roles in a more robust capacity-building effort. In addition, the North Atlantic Treaty Organization (NATO) should ensure that it maintains an adequate presence through the most sensitive periods ahead of us, which will be related to the future status process.

Furthermore, UNMIK will not be able to operate in an efficient manner without constant and strong support from the Security Council and the Contact Group. The international community cannot afford to perform in a fragmented, uncoordinated and often competitive way. The stakes are too high and the challenges too demanding.

Recommendations

The main recommendations of the report are therefore as follows:

- A comprehensive and integrated strategy covering the period from now until the end of 2005 should be elaborated and consulted on with relevant partners. This report contains elements for such a strategy. Discussions with the Security Council, other organizations and key Member States should be undertaken in early fall to secure commitment for the resources and support required to implement that strategy.

- Pressure must be maintained in order to strengthen current positive trends and ensure that immediate challenges are met in a convincing way. This includes demonstrable progress in the area of security, reconstruction, prosecution of those responsible for the March events and reform of local government. This relates to reassuring the Serbs in a way that could bring those who fled back to their homes and their leaders back to the political processes.

- The "standards before status" policy should be immediately replaced by a dynamic priority-based standards policy within the overall framework of the integrated strategy in order to facilitate orderly future status discussions as well as regional and European integration efforts. Three intermediary standards reviews should be scheduled before the mid-2005 review.

- An ambitious policy of transferring further competencies should be launched without delay, giving the Provisional Institutions of Self-Government a greater sense of ownership and responsibility as well as accountability. This should include establishing new ministries of energy, of justice and of community matters, human rights and returns.

- A process of handing operational control of the Kosovo Police Service (KPS) gradually over to the Provisional Institutions of Self-Government, while UNMIK maintains overall executive policing authority, should be elaborated and implemented. Units of KPS should immediately be given proper training and equipment to meet challenges relating to civil disturbances. The handover of remaining United Nations police responsibilities to the European Union or OSCE should be explored.

- The Special Representative of the Secretary-General should be ready to make greater use of sanctions and interventions without delay. An inventory of possible measures should be drawn up.

- A more coherent and ambitious policy of capacity-building is urgently needed and should be elaborated and implemented under the leadership of OSCE.

- UNMIK should be streamlined and realigned this summer with the aim of providing new energy and a more concentrated effort on key challenges. A more comprehensive restructuring of the international presence as a whole should be undertaken in 2005 with a gradual reduction of UNMIK as it moves towards a completion of its mandate and a handover of responsibilities to other authorities and organizations. Preparations for such a handover to regional organizations should begin well in advance, based upon agreements reached and as part of the overall strategy.

- The European Union should urgently develop an economic development strategy and should consolidate its various presences in Kosovo and strengthen its overall commitment.

- NATO should maintain the presence of the Kosovo Force required to ensure a safe and secure environment, with a view to ensuring an adequate force level during the future status process.

- The broader international community should provide a more concerted and coordinated engagement.

- A more intense and comprehensive dialogue with Belgrade should be initiated without delay.
- A high-level international consultative mechanism for Kosovo involving key capitals and headquarters should be established.
- Serious exploratory discussion of the future status question should be undertaken by the United Nations beginning this autumn.

I. Introduction

1. Pursuant to your report on the United Nations Interim Administration Mission in Kosovo (UNMIK) of 30 April 2004 (S/2004/348), you asked me to undertake a political assessment based on the attached terms of reference. In preparing the report, the team you appointed first held a comprehensive round of meetings in Kosovo and Belgrade (Serbia and Montenegro), Vienna, Brussels and New York. Towards the end of our work, I travelled back to Belgrade and Pristina for another series of discussions with key political leaders. Altogether, we have met with a very wide range of interlocutors: representatives of international organizations and institutions, political leaders at governmental as well as municipal levels, religious leaders and representatives of civil society and student organizations. The considerations and recommendations you will find below represent my best judgement of where we stand and how we should now proceed in accordance with Security Council resolution 1244 (1999).

II. Political environment

2. Today's Kosovo is characterized by growing dissatisfaction and frustration. In different forms it affects all parts of the society — Kosovo Albanians, Serbs and other minorities. Our current policies are seen as static and unable to respond to the real problems facing Kosovo. Marginal adjustments will only add to the frustration, increase the danger of more violence, damage the reputation of Kosovo further and weaken the international community. The arrival of a new Special Representative of the Secretary-General will provide a window of opportunity for regaining the initiative. He must bring a new, coherent and dynamic strategy, where short-term measures fit more clearly into a longer-term perspective. His arrival must be exploited to mobilize strong support from the wider international community based on a shared vision and unity of purpose. Furthermore, a new "contract" between the international community, the leaders of the Kosovo Albanian majority and the Serb leaders must be part of this strategy. The longer-term perspective has to be the consideration of Kosovo's future status. While not prejudging future status, a new strategy must be based on an understanding that the future status question should be addressed soon.

Kosovo Albanians

3. The majority Kosovo Albanian leadership consider our current approach as a policy of status quo, which can only lead to a further worsening of difficult economic and social conditions. This view is also widely shared by the majority population, struggling with an unemployment rate on the order of 60 to 70 per cent and a reduction of income from international donors as well as remittances from the diaspora. They regard current policies as an attempt to postpone the unresolved question of the future status of Kosovo, denying them the political road map and the future required to address political and economic challenges. While the international community in other post-conflict situations has emphasized the need to mobilize local ownership, they see the opposite as happening in Kosovo. UNMIK has almost inevitably become the main target for widespread criticism; for lack of competence in governing Kosovo and lack of willingness — or mandate — to move Kosovo

towards its future status. Its lessened credibility was confirmed when the joint declaration between Kosovo Albanian and Serb leaders concerning, inter alia, reconstruction and returns, was signed on 14 July in the presence of the representatives of the United States of America and the European Union, but without UNMIK.

4. Nevertheless, most Kosovo Albanian politicians probably understand that the March violence damaged Kosovo's reputation and support in the international community and could affect their political aspirations negatively. They realize that serious efforts have to be undertaken to avoid new violence and that they are expected to reassure Serbs and facilitate their return. In April, Kosovo Albanian politicians, while verbally recognizing the damage of the March events for Kosovo's image, were reluctant to recognize their responsibilities for preventing violence. Now there is a greater readiness to accept that their reactions to the violence in March was too little, too late. In meetings with the Kosovo Albanian leaders, they have all underlined their commitment to giving the Serbs and the international community a message of reassurance and to move forward in accordance with that message. Now they must reassure the international community and the Serbs by repairing the damage caused by the violence as well as developing meaningful local government. The joint declaration referred to in paragraph 3 confirms this impression of a genuine commitment. However, the Kosovo Albanians also emphasize the need for a further transfer of responsibilities to the Provisional Institutions of Self-Government. In the absence of such transfer and movement towards discussions of future status, they warn that existing frustration will deepen.

5. The events of March clearly demonstrated that extremists are ready to ignite inter-ethnic tension and seek a further reduction in the Serb population in Kosovo. Support for such extremists is fuelled by a feeling that Serb leaders in Belgrade and Kosovo are holding up the process of defining future status. However, anti-Serb sentiments do not appear to represent a broadly shared attitude. For example, in meetings with Kosovo Albanian students, inter-ethnic relations were barely mentioned. At the centre of their worries were the miserable employment prospects. One of them formulated the main concern with the following words: "you gave us freedom, but not a future".

Kosovo Serbs and Belgrade

6. The March events were assessed by Kosovo Serbs and Belgrade as the culmination of a process of forcing Serbs out of Kosovo, particularly from all major towns, thus decreasing their presence to scattered village populations, with the exception of the north. There is a strong feeling among Serbs and other minority populations of having been abandoned by the international community and left unprotected, in spite of a significant military and civilian presence. Their confidence has been shattered.

7. Since these events, Kosovo Serbs have not participated in the work of the Provisional Institutions of Self-Government and condition their re-engagement with demands related to reconstruction and returns, prosecution of the perpetrators, security and the development of local government reform. Unless such demands are seriously addressed, Serb return to the Provisional Institutions of Self-Government and participation in the upcoming general elections will be in question. However,

Serb politicians understand that the international community is now listening more attentively to their concerns. They realize that remaining outside the political process could put this attention and the support they now enjoy from the international community at risk, particularly when their Kosovo Albanian counterparts are seen to take steps to accommodate their demands. Over the last weeks several meetings have taken place with Kosovo Albanian and Serb participation. The tone is more conciliatory and the Serbs seem more willing to participate in common efforts. Again, the joint declaration mentioned above is a constructive step.

8. Belgrade's moderation in responding to the inter-ethnic violence was well-received by the international community. With the Serbian presidential elections now behind us, parliamentary elections may occur early next year. Again, political leaders in Belgrade will seek a balance between the appeals of the international community and concerns over forthcoming elections. The political leaders in Belgrade understand full well the importance of participating in processes relating to Kosovo. However, they also need to demonstrate to the population that the international community and Kosovo Albanian politicians respond to their demands. Without a concentrated effort to engage Belgrade in a constructive dialogue, Serb participation in elections and institutions in Kosovo is unlikely to take place. There is a strong impression in Belgrade that such a dialogue has been lacking, contributing to the tarnished image of UNMIK. This dialogue with Belgrade must be intensified to ensure support in moving forward on a number of issues. Furthermore, Belgrade will be a party to the future status negotiations and should be engaged in a dialogue and a confidence-building process as soon as possible.

9. Political life in Kosovo will now be increasingly dominated by the Assembly elections on 23 October. With new political parties and movements being established on the Kosovo Albanian side, the election campaign will be intense. At the same time, Serb participation is, as mentioned above, uncertain. There is a real risk of inter-Albanian violence in addition to the constant danger of violence against minorities.

International community

10. The international community was caught by surprise by the March violence. The response was slow and confused on both the military and civilian sides. Some characterized the surprise and hesitation of the international community during the March violence as a result of "intelligence failure". Lack of intelligence may well have prevented us from detecting and reacting to the activities of extremists. However, the real problem goes much further; the international community failed to read the mood of the majority population, its frustrations and impatience. It also failed to understand the potential for extremists to mobilize support for ethnic violence and the vulnerability of minorities — and in particular the Serb population.

11. With few exceptions, the efforts of the international community had become a static, inward-looking, fragmented and routine operation. The international community, therefore, gave the impression of being in disarray, without direction and internal cohesion. With calm restored, various international organizations and actors have launched their own "lessons-learned" exercises aimed at improving their performance. These "lessons-learned" exercises confirmed that the international

community was fragmented and without leadership. They demonstrated a serious lack of a rational, unifying plan. The international community had left a big, but inadequately resourced, mission without proper political support and — even worse — without a sense of political direction. However, the international organizations on the ground — and in particular UNMIK — have also been victims, stemming from a lack of direction and overall plan provided by the international community. For UNMIK, this has been an untenable situation. In the absence of a strategy with any sense of direction, they have been used to "keep the lid on". That would be a difficult situation for any international mission anywhere. In this situation, the renewed attention given to Kosovo in the aftermath of the March events by the Security Council and particularly the Contact Group countries has been of great value. It has provided a bridge to bolster the Mission's efforts in a situation without civilian leadership on the ground and without clear policies.

12. The international community in Kosovo is today seen by Kosovo Albanians as having gone from opening the way to now standing in the way. It is seen by Kosovo Serbs as having gone from securing the return of so many to being unable to ensure the return of so few. The situation is characterized by trends, which — if not corrected — will put us all in an increasingly unmanageable situation. The Kosovo Force (KFOR) will continue its reductions and will inevitably become weaker. The UNMIK police will also have serious problems maintaining its current strength. The economic situation will continue its slide downwards. But the frustration in the population and the potential for unrest will grow.

13. The arrival of the new Special Representative of the Secretary-General creates an opportunity to improve the United Nations own performance and image and to regain the initiative. It must also be used to strengthen the entire international community's ability to develop and implement a common strategy through 2005. This must include a more comprehensive political and economic involvement by the European Union, a commitment to robust and sustained capacity-building efforts by OSCE and the Council of Europe, as well as an expressed readiness by KFOR to remain on the ground as long as it takes and in the strength that it takes. Today, the major international actors do not have a clear and unified strategy. Kosovo has disappeared from the political agenda under the pressure from other conflict areas. A new strategy will certainly not mean that violence is rewarded. It must be an effort to re-energize the international community and to regain the confidence of the population by demonstrating that we understand the frustrations and vulnerabilities, and are able to address them.

14. The conclusion of this report is that unfulfilled aspirations and ambitions cannot be handled by policies without a clear political perspective. Political stability and economic prosperity will depend on well-functioning Kosovo institutions. However, well-functioning institutions depend on a strong sense of local ownership. Such ownership cannot be achieved if the owners do not know what they own and what they are intended to govern. The need for a workable exit strategy is often underscored. However, success will depend not only on the ability to formulate a strategy, but just as much on the readiness of the entire international community to stay the course in a coherent way. A major effort is required to bring the key components together. A high-level international consultative mechanism for Kosovo with this objective involving key capitals and headquarters should be established.

III. An integrated strategy: meeting immediate challenges in order to manage the interim and prepare for future status

15. A new strategy should:

- Meet immediate requirements relating to security and prosecution as well as reconstruction, return and decentralization
- Formulate a more dynamic standards policy with achievable priorities reflecting the most urgent needs, including those for the future status process
- Agree on further and visible transfer of responsibilities and competencies to Kosovo authorities
- Demonstrate resolve to sanction Kosovo authorities for misuse of powers and responsibilities
- Develop a comprehensive policy of capacity-building to help improve the ability of Kosovo to govern
- Reform the structures of the international presence in Kosovo
- Prepare for discussions of future status

Most of these elements will have to be considered and implemented in parallel — making the task even more demanding. We need a strategy in which each step is designed to fit into a vision underpinning that strategy. Otherwise, we will not get anywhere except more deeply into internal frustration and international disarray. Such a strategy would consist of four stages in our work: (a) the response to the immediate concerns caused by the March events; (b) managing the interim before addressing the future status question; (c) preparing for and negotiating the future status; and (d) at the very end, overseeing, monitoring and assisting in implementing the political settlement for future status.

Immediate challenges: a question of restoring credibility

16. Following the March violence, a number of immediate challenges have to be met: the international community declared its determination to improve security, to prosecute those responsible for the violence and to ensure reconstruction of damaged property. Bringing back those who were forced from their homes and ensuring renewed participation of the Serb leadership in the political process are priority objectives. Failure may have serious repercussions for the future. Success will generate new support for the international community and may deter future violence. Meeting these immediate challenges will represent the first step in a new integrated strategy and will have a decisive impact on our ability to proceed confidently to the next stages. There are positive developments in these areas. However, they do probably to a very large extent stem more from international pressure. Keeping this pressure up will therefore be of vital importance.

Security

17. In the security area, significant efforts have been undertaken. KFOR has launched a process of improving its performance, while postponing a planned restructuring of its forces. Most important in that respect are the efforts of KFOR

aimed at improving the flexibility of its forces and at enhancing its ability to carry out riot control operations. Furthermore, KFOR has resumed protection of religious and cultural sites and has established mobile observation teams to maintain closer contacts with the population. Closer liaison and coordination between UNMIK police and KFOR have been established and intelligence-gathering has been improved. KFOR and UNMIK police, including the Kosovo Police Service (KPS), have also undertaken joint exercises. However, further streamlining of international security efforts is required.

18. A Security Advisory Group has been established and could be a useful mechanism provided all interested parties participate actively. After having abstained from its first meetings, the Kosovo Serbs have now joined its work. Further strengthening of this mechanism must be encouraged. A stronger sense of commitment to the security of the Serb and other minorities is, as mentioned above, now expressed by key Kosovo Albanian leaders. The international community must do its utmost to maintain this commitment.

19. There is an urgent need to train and equip KPS to carry out civil disturbance operations. Plans have existed for nearly three years for the training of a limited KPS contingent. Equipment has also been promised for this purpose. However, disagreement over priorities seems to have led to a postponement of the creation and training of such units. A multi-ethnic and well-trained KPS will be in a better position to conduct riot control and combat violence than international police officers. Training and equipping such units must therefore receive immediate attention.

Prosecution of those responsible

20. After the March violence, UNMIK undertook the commitment to bring to justice those who were responsible. The Mission's authority and ability to deter future violence and to encourage return will be judged by its ability to live up to this commitment. In the immediate aftermath of the violence, over 260 persons were arrested. Over 260 cases were being handled by the local judiciary as of mid-July; 80 persons had been convicted on minor offences. International investigators are handling the most significant cases. Five indictments had been issued and others are in the judicial process. However, Kosovo Serb leaders claim that KFOR and UNMIK are aware of the identity of the main instigators and organizers, but are not prepared to pursue them. They consider this as an indication of the weakness and inability of the international community to bring an end to an atmosphere of impunity.

Reconstruction

21. The Provisional Institutions of Self-Government are responsible for reconstruction of the damage resulting from the March violence. The start was slow, for political as well as for practical reasons, with a lack of commitment, especially at the local level. Financial resources — while inadequate — have now been allocated, organizational problems have been addressed and reconstruction has accelerated. Nevertheless, deadlines are likely to be missed. The reconstruction of religious and cultural sites also remains pending and sufficient funds must be found. Failure to complete reconstruction in a timely manner could prevent returns in 2004

and impede efforts to re-engage Kosovo Serbs and affect their participation in elections.

22. Recently, a gradually changing attitude to reconstruction and returns in the Kosovo Albanian community can be observed. Kosovo Albanian leaders have been visiting areas in Kosovo with UNMIK and other international officials, explaining the need to facilitate return. While the responsibility for reconstruction rests with the Provisional Institutions of Self-Government, the credibility of the international community is linked to its ability to ensure implementation.

Decentralization

23. The violent events of March have demonstrated the urgent need to give the Serb minority greater authority over local administration in areas with a more concentrated Serb population. A political and institutional framework must be established, aimed at guaranteeing their continued presence in Kosovo. This process of decentralization is also closely linked to the return process. Kosovo Albanian leaders seem to understand the importance attached to this work by the international community and by the Serb leaders. They now welcome decentralization as long as it is not designed to be a cover for territorial partition. It is too early to judge if there is a consistent commitment by the Kosovo Albanians as well as the Kosovo Serbs to this process. However, the recent proposal by both sides to establish a ministry responsible for community matters, human rights and returns should be welcomed and implemented.

24. The process of decentralization will not be completed in the short term. There is, however, a need for important deliverables early on in the process through, inter alia, pilot projects. Consequently, the process should be broken up into stages with a concrete outcome at the end of each stage, demonstrating the commitment of the Kosovo Albanians as well as the credibility of the international community to meet the concerns of the Kosovo Serbs. In order to succeed, decentralization must be seen as originating in Kosovo with the support of Kosovo Serbs and Kosovo Albanians, but also from Belgrade.

25. Municipal involvement and responsibilities with regard to policing should also be considered in this respect. Mono-ethnic policing should be avoided. However, municipal policing is a well-established concept and could be a valuable contribution to establishing the reassurances and trust sought by the Serb community.

26. The discussions on decentralization also address the issue of parallel structures. In the light of the Kosovo Albanian complaints about such structures, a greater commitment by them to deliver adequate services to the minorities, particularly in health care and education, should be demanded and be accompanied by UNMIK readiness to impose sanctions where such services are not provided. Introducing minority deputy ministers and establishing "vital interest" mechanisms at various levels of administration would give the minorities further opportunities and facilitate bringing them into the legitimate Provisional Institutions of Self-Government, reducing the need they see for parallel institutions. Finally, a broad decentralization policy should include mechanisms to ensure that the cultural, linguistic, religious and other similar rights of minorities are protected across Kosovo. Setting up an Assembly with a specific mandate in such areas — and with the financial resources available — should be considered. Such mechanisms exist in

a number of countries. This would, of course, not in any sense mean geographic partition, but would rather promote the integration of minorities into a wider Kosovo framework. Finally, it would contribute to meeting the needs covered today by parallel structures.

Managing the interim period

27. Beyond these immediate needs to address Serb concerns, the international community will be faced with strong pressure from the Kosovo Albanians. In the campaign leading up to the elections on 23 October, the further transfer of competencies and authority — leading to independence — will be the main theme of all Kosovo Albanian parties. These elections will be followed by preparations for the mid-2005 standards review. However, the Kosovo Albanians look at this date with a very different perspective: to them, it is not a review of standards, but the opening of discussions of Kosovo's future status.

Moving beyond "standards before status"

28. There is a growing recognition that the "standards before status" approach is untenable in its present form. It must be replaced by a broader policy whereby standards implementation takes Kosovo in an orderly way from the present through future status discussions and into a wider regional and European integration process. In the current situation in Kosovo, we can no longer avoid the bigger picture and defer the most difficult issues to an indefinite future. Maintaining today's approach would widen the gulf between our policies and the mood of the society in which we are engaged.

29. The "standards before status" policy was partly designed as a tool to manage the interim period until the international community would be ready to address the question of future status. Kosovo Albanians as well as Kosovo Serbs consider the standards as unrealistically ambitious and unachievable in the short term and therefore do not believe in the sincerity of the international community's "standards before status" attitude. The international community publicly repeats the mantra, but with little conviction.

30. The Kosovo Standards Implementation Plan adopted in March 2004 provides a useful overview of requirements for turning Kosovo into a more modern democratic society. However, its level of detail and ambition underscores that implementation as a precondition for status discussions lacks credibility. Again, reaching the goals of the implementation plan will be a long-term effort, which will go beyond the status issue and into the further process of guiding Kosovo closer to European standards and integration into Euro-Atlantic structures.

31. Nevertheless, in order to address the future status issue, Kosovo must make progress in key areas. A standards-based policy must focus on a set of priorities reflecting the most urgent requirements. To promote short-term progress, these priorities should be realistic and achievable as well as visible, leading to concrete results on the ground and a better climate between the majority and the minorities. After the March events, the initial focus must be placed clearly on return and reconstruction, decentralization/local government, security and standards directly supporting such priorities. These areas will be of crucial importance in our efforts to bring Serbs back to their homes and their leaders back to the political process.

Giving the minorities conditions and political mechanisms to ensure a dignified life in Kosovo will allow us to move forward with confidence towards further transfer of competencies and more local ownership. A priority-based policy would also enable us to send a more unambiguous and convincing message to Kosovo Albanian leaders with regard to what is expected of them in order to proceed. We would gain in credibility and become more effective on the ground.

32. If we do not set priorities then we may well be unable to regain the initiative. We may then find ourselves confronted with future status discussions without having done our utmost to secure the basic conditions for such discussions to take place.

Transfer of competencies

33. Kosovo Albanian leaders are unanimous in demanding a further transfer of competencies to the Provisional Institutions of Self-Government. In fact, this process has already come far; within the areas of non-reserved competencies almost all competencies have been transferred. What the Kosovo Albanian politicians now seek — in an increasingly assertive way — is the transfer to the Provisional Institutions of Self-Government of reserved powers under chapter 8 of the Constitutional Framework for Provisional Self-Government. While respecting resolution 1244 (1999) and chapter 8 of the Constitutional Framework, time has come to expand further the competencies and responsibilities of the Provisional Institutions of Self-Government. Our demands to the Kosovo leaders and population for taking responsibility for creating a stable and multi-ethnic society will succeed only if they are combined with an increasing degree of ownership of this society. A plan should therefore be drawn up based on the following outline: powers and competencies that are not inherently attributes of sovereignty could be gradually transferred with guarantees for proper implementation if they have not already been transferred; regarding powers and competencies that are not attributes of sovereignty, but — under the circumstances — have been placed under the authority of the Special Representative of the Secretary-General, a concept of "shared powers and competencies" could be introduced; and powers and competencies that are clearly attributes of sovereignty, for as long as resolution 1244 (1999) remains the legal framework for Kosovo, should remain within the sole power of the Special Representative of the Secretary-General, but with a meaningful process of consultation, cooperation and coordination institutionalized between the Special Representative and the Provisional Institutions of Self-Government.

34. UNMIK should, in other words, accelerate and expand the process of involving Kosovo residents in executive and support roles in reserved areas while retaining the decision-making authority, as has already been done in UNMIK Customs and the Kosovo Police Service. Furthermore, UNMIK should proceed with establishing consultative mechanisms with the Provisional Institutions of Self-Government in reserved areas where the possibilities for "Kosovarization" are limited or do not exist. Such greater local involvement in the reserved areas would also provide the Provisional Institutions of Self-Government with relevant experience, which eventually will have to be transferred from UNMIK as a result of future status discussions.

35. Although it is widely perceived that all non-reserved responsibilities have been transferred to the Provisional Institutions of Self-Government, the possibility of

further transfer in the economy, management of public property and other sectors should be further examined. This relates, inter alia, to energy issues. A separate Ministry of Energy should be established.

36. The creation of a ministry responsible for community matters, human rights and returns, as suggested in the joint declaration of 14 July, could improve the capacity for handling questions relating to community matters, which could include those related to local government and demonstrate the commitment of all to the concept of decentralization. This proposal should be welcomed and implemented quickly.

37. Within the area of justice, a process of handing over responsibility to Kosovo control is under way. Certain exceptions will still be made with regard to especially sensitive crime, such as inter-ethnic crime and crime relating to organized criminal activities, extremism and terrorism. A Ministry of Justice should be established to take responsibility for these areas, with the above-mentioned exceptions.

38. The Kosovo Police Service will still be functionally a part of UNMIK rather than the Provisional Institutions of Self-Government. Since a secure environment must be home-grown, a transition strategy should, however, be elaborated for security matters of a local nature, while retaining international oversight in sensitive areas. Today, there is a significant lack of uniformity in UNMIK control of KPS. The KPS leadership is generally of high quality and the personnel are well trained. Ways should be found for KPS to take more control of its activities in regular operations.

Sanctions and interventions

39. The transfer of powers and competencies under the Constitutional Framework will not relieve the Special Representative of the Secretary-General of his overall authority and responsibility for the proper exercise of such powers and competencies under resolution 1244 (1999). This responsibility implies that he must not only have the ability to monitor and oversee; he also has the power to intervene and sanction any of the local institutions. Therefore, the Special Representative should demonstrate the readiness to do so. UNMIK must also have the capacity to oversee the activities of the Provisional Institutions of Self-Government.

40. On a number of occasions, the Special Representative has intervened in the legislative process of the Provisional Institutions of Self-Government. He has refused to promulgate laws judged to be in violation of resolution 1244 (1999) and the Constitutional Framework and has nullified resolutions of the Assembly considered to be beyond the scope of its competencies. Powers of intervention were also exercised through executive decisions to set aside decisions of municipalities.

41. Nevertheless, the total number and scope of such interventions remain very modest and the difference between the practices of various Special Representatives and those of the High Representatives in Bosnia and Herzegovina is striking. Kosovo Serb as well as Kosovo Albanian leaders have in our conversations referred to the cautious approach chosen by all Special Representatives of the Secretary-General in Kosovo. They have pointed to the fact that a more robust policy has never been adopted in Kosovo, although it is in a region where such policies are expected as well as respected. Further transfer of authority should be accompanied by greater readiness to use sanctions and interventions in order to set aside

decisions, overrule policies and remove personnel. An inventory of possible measures of intervention and sanctions, including financial sanctions, nullifying decisions, overruling policies and removing personnel, should urgently be drawn up to guide the new Special Representative of the Secretary-General.

Capacity-building

42. A greater transfer of authorities and a more robust intervention policy should be accompanied by a more ambitious and systematic policy of capacity-building. It is a general assessment that the Provisional Institutions of Self-Government are weak and inexperienced. Along with greater ownership, the Provisional Institutions of Self-Government must be provided relevant knowledge and expertise. Much has been done to build such capacity. The most prominent example is the Kosovo Police Service School. This has been a systematic and evolving project, which has provided Kosovo with a remarkably well-trained multi-ethnic police service. However, very significant gaps remain in a number of other areas. Capacity-building efforts have tended to be sporadic, uncoordinated and of limited duration, carried out by a number of actors. Under such circumstances the impact will necessarily be limited. During talks with Kosovo Albanian leaders, they appealed for a more systematic approach and for ensuring that the qualifications of those involved match the needs on the ground. The Organization for Security and Cooperation in Europe (OSCE) could be asked to identify areas where capacity-building is needed and to draw up a more systematic plan of action for meeting existing requirements.

Economy

43. Prospects for economic development in Kosovo are bleak. It never had a self-sustaining economy and — as the poorest part of the former Yugoslavia — was heavily subsidized. The current 60 to 70 per cent unemployment rate and the lack of economic prospects represent a major source of the widespread frustration. Unemployment among the minority population in some areas reaches 90 per cent. Kosovo cannot rely on international aid and remittances much longer and needs direct investments.

44. While privatization is widely considered as the centrepiece of the UNMIK economic policy, it still remains only a part of economic development and certainly is not a panacea. It will not produce positive changes in the short term and the mid-term prospects depend on a number of other factors, such as investor confidence. Key Kosovo Albanian leaders are fully aware of this. However, privatization has become a symbolic issue and a sign of unfulfilled promises by UNMIK. The privatization process should move forward effectively without delay.

45. A solution to the question of future status will change the economic prospects and create opportunities for a more comprehensive economic development strategy. However, the prospects for investments, production and employment will remain weak for a considerable period of time. While focusing on a European perspective, Kosovo and surrounding States must be assisted in developing a regional perspective in order to promote growth. Many of their most promising partners will be found in their own region. Consequently, any political and economic strategy has to aim at facilitating regional cooperation, development and trade. Defining Kosovo's future status must not lead to new dividing lines in the region, but must be used as an opportunity to stimulate cross-border cooperation and trade. The

European Union (EU) will have to play the primary role in formulating such a regional, European-oriented economic strategy.

IV. Facing the ultimate challenge; the future status

46. The pressure in Kosovo to raise the future status question will become more intense. This will force the international community into a discussion about the timing of status negotiations at least in mid-2005, if not earlier. The question of timing must be considered from at least three angles: What is the right timing seen from (a) internal Kosovo considerations; (b) the regional perspective; and (c) the perspective of the international community?

47. Seen from an internal Kosovo perspective, the longer we wait, the more the frustration in the Kosovo majority population would increase. The economic situation would deteriorate further. The lack of a political perspective — a clear future — would be felt even more intensely than today. This would also affect the vulnerability of the minorities. Consequently, setting an example after the March events — with regard to returns and reconstruction as well as decentralization — is of crucial importance. If the international community cannot now convince Kosovo Albanians to do their utmost to deliver and give Serbs the reassurances they need, then we may face two unpleasant options: either to be drawn into status discussions without having created more stable conditions for the minorities or to postpone status discussions while seeing a constant increase in tension between the majority and minority populations. None of these options would serve the interests of Kosovo or of the international community.

48. From a regional perspective, the most important components are — of course — the former Yugoslav Republic of Macedonia and Serbia and Montenegro. The question of the ability of the former Yugoslav Republic of Macedonia to carry the burden of status negotiations — without experiencing internal turbulence and tension — has always been difficult to answer. During a number of discussions, with international representatives as well as with politicians from the region, the answer has been that the former Yugoslav Republic of Macedonia is now stable enough to avoid serious spillover effects. In case of prolonged negotiations, resulting in a high degree of tension inside Kosovo, the situation in the former Yugoslav Republic of Macedonia may, however, also become tense. This will probably continue to be the case in the foreseeable future.

49. The situation with regard to Serbia and Montenegro is obviously more complex. Until parliamentary elections are held — maybe early next year — only radical politicians can gain from discussions about Kosovo's future status. This topic did not play a prominent role in the recent presidential campaign following the unanimous approval by the parliament of Serbia and Montenegro of the decentralization plan presented by the Government. It is unlikely that the political climate in Serbia and Montenegro will change after the parliamentary elections in the sense that it will become easier to initiate discussions about the future status of Kosovo. This will, however, continue to be the situation for the foreseeable future. Nevertheless, many in Belgrade may understand that authority over Kosovo cannot be re-established and that the economic and political advantages of solving the problem — in terms of European integration — may be significant. Postponing future status discussions will also weaken Belgrade's positions in these discussions.

50. For the region, a solution to the question of Kosovo's future status would be a positive development. It would eliminate the by far most important remaining problem in the Balkans and have a positive effect on the political as well as economic prospects of the region. Certain key considerations should be kept in mind; a prolonged negotiation process could create spillover effects. Furthermore, solutions implying changes in Kosovo's territory or dividing lines in Kosovo based on ethnic criteria could have dangerous effects in the region.

51. From the perspective of the international community, a discussion of future status should take place while the international community has the strength and leverage required to deter and handle internal and external challenges. Waiting will make the international community weaker and the frustration of the Kosovo Albanians more intense.

52. Altogether, there is — of course — no ideal moment for raising the future status issue. There may not even be a good moment. So far, we have all been of the opinion that it was not timely to touch the future status question. Now, raising it soon seems — on balance — to be the better option and probably inevitable. The process must be initiated, albeit cautiously.

53. Any step undertaken on the ground must be seen in this context and contribute to facilitating orderly status talks. Regular discussions with other key interlocutors in the international community must be undertaken in order to ensure unity of purpose and of positions on the ground. And finally, Belgrade must be engaged in a confidence-building dialogue. Both Belgrade and Pristina must be made aware of the economic and political advantages which will follow from an orderly solution to the future status question.

54. The United Nations should play an active part from the outset of the process together with its partners to ensure that its interests are kept firmly in mind during the entire process, in the light of the role given to the United Nations in resolution 1244 (1999). Therefore, the United Nations should start its preparations. During an initial phase, the United Nations should develop its own thinking, discreetly sound out key capitals and ensure that the United Nations perspective is present. The United Nations should also engage such capitals in considerations of available incentives and disincentives, which could be needed and useful to promote stability before, during and after status discussions. This exploratory phase should be followed by more concrete preparations on the basis of an agreed way forward, and subsequently the negotiations of future status, depending on a decision of the Security Council.

V. Configuration and engagement of the international community

Restructuring of the United Nations Interim Administration Mission in Kosovo

55. There is no doubt that UNMIK since 1999 has made a significant and important contribution under difficult circumstances. Its staff is to be commended for their work in implementing the Security Council's mandate. However, as time has passed, the lack of a long-term vision and of an integrated strategy has taken its

toll. Therefore, there is a need to restructure UNMIK in relation to its current and upcoming priorities.

56. The UNMIK structure was established in order to create unity of purpose, exploit synergies and avoid duplication by bringing the relevant organizations together. However, rather than doing so, the pillar structure has sometimes created frustration over lack of visibility (and generosity) and enabled other participants to "hide" behind the United Nations without developing their own strategies within their areas of responsibility. Changes in the structure and working methods of UNMIK are now expected by all and urgently required in order to project a convincing image of a dynamic and international community in Kosovo. Today's UNMIK is seen by the local community, as well as key international actors, as being bureaucratic, not able to react quickly and allocate its resources where the priorities are. The widespread debate on the structure of UNMIK also absorbs much energy and takes attention away from the substance of the Mission's work.

57. A restructuring of UNMIK is unavoidable in order to re-energize the Mission, bring its various components together and concentrate on key priorities in a more organized way. It will also enable UNMIK to reduce personnel and improve the quality of its staff and working methods. However, a complete overhaul at this stage would be counterproductive, leading to more internal discussion and confusion at a time when concentrated effort on urgent issues of substance is required. It would also tie the Special Representative of the Secretary-General down at a time when a new vitality and concentrated attention on priority areas is needed. The restructuring process should therefore be divided in two phases: first, streamlining and realigning; and second, preparing for a new division of labour — inevitably a much more comprehensive effort.

Immediate: realigning and streamlining

58. This first phase would re-energize the Mission and avoid a period of prolonged confusion related to pillars, mandates, tasks and lines of authority. A discussion of whether or not the OSCE and EU pillar should remain or form separate entities should also be avoided at this stage — although it should not be postponed for long. The focus this autumn should be on drawing the pillars closer in a coherent and strategic approach. Emphasis should be on bringing units and personnel dealing with related issues together, enabling UNMIK to act swiftly in key priority areas.

59. Particular attention should be given to questions relating to community issues. This can be achieved by bringing the relevant parts of Pillar II into the Office of Communities and Returns located in the Office of the Special Representative of the Secretary-General or by moving the Office into Pillar II. The second option has the advantage of bringing all relevant resources together in one framework and with community activities led by a senior Deputy Special Representative of the Secretary-General. This could make community-related work more efficient and give it a higher profile as an expression of the priority given to these activities. However, strengthening community activities at the central level should be accompanied by a reallocation of resources to the municipal level. The lack of adequate resources at this level has negatively affected UNMIK efforts.

60. Pillar III (OSCE) and Pillar IV (EU) would for the time being remain in place, possibly with some adjustments, and continue to form part of the UNMIK structure. Clarity should be sought with regard to the "ownership" of the EU Pillar.

Furthermore, the EU should seek to consolidate its various presences in Kosovo into a more coherent and streamlined structure, thereby improving its impact on the ground and the coordination with UNMIK. The establishment of new ministries could affect the structure and tasks of several pillars, making downsizing and a reduction of personnel possible. Discussions should also begin on future responsibilities to be taken on by the regional organizations in order to allow sufficient time to prepare.

61. There is an urgent need for the different components of UNMIK to work together. A streamlining effort will therefore have to address internal, particularly inter-pillar, coordination and cooperation. Policies need to be shaped in a wider, shared context, where priorities are set jointly on the basis of a common strategy. Despite regular meetings, joint strategic and operational planning between the pillars is weak. This leads to parallel actions and a lack of a shared sense of direction. The absence of UNMIK-wide strategies and inter-pillar priority formulation leads to tunnel thinking, affecting progress negatively. Of course, each pillar has different institutional "origins" and different approaches and time lines. However, their strategic priorities, operational planning and action on the ground must be better coordinated. A high-level policy coordination mechanism with assets from across UNMIK could be a useful tool to that effect. Furthermore, the Special Representative of the Secretary-General must be accepted and seen by all as the person who sets the direction on the ground.

62. Great care will also have to be taken with regard to recruiting and allocating the right kind of expertise to fill priority functions. Inexperienced or unqualified personnel often lead to suboptimal performance and lack of momentum. A mission "coming of age" is often left without the attention required to recruit personnel able to meet evolving or new challenges. This should not be allowed to happen.

63. As a part of the more immediate restructuring effort, UNMIK should bring various other United Nations agencies closer to the Mission. This relates to the United Nations Development Programme, the United Nations High Commissioner for Refugees and the Office of the United Nations High Commissioner for Human Rights. A sense of marginalization should be avoided and corrected. Discussions should be undertaken on successor arrangements with the United Nations family to take on tasks where they have a comparative advantage.

A view to the future: a new division of labour

64. A second more comprehensive restructuring will have to take place in 2005 and will need to be well prepared by involving a number of capitals and headquarters. With the mid-year review and the future status talks possibly approaching, the international community will have to prepare itself for a new situation with a different set of tasks. As we approach the end of the mandate of resolution 1244 (1999), the United Nations will gradually reduce its presence and its tasks, culminating with a handover at one stage of its authority to new and permanent institutions established under the political settlement. Residual responsibilities should be assumed by regional organizations. To that end, the EU will have to strengthen and widen its presence significantly. OSCE and NATO will need to adjust their presences to new political realities. This would, of course, lead to the elimination of the pillar structure.

65. With the end of the mandate of resolution 1244 (1999), Kosovo will probably be governed from Pristina, with the EU assuming the international lead role. The establishment of an Office of the High Representative in Pristina should be encouraged. With this in mind, the EU should now start shaping its own strategy towards Kosovo. Politically, the EU will be the most important magnet both for Pristina and Belgrade. The EU should be able to use its influence to ensure that the Kosovo Albanians commit themselves to respecting and facilitating the presence, participation and identity of the minorities; would be able to create hope by formulating an economic development strategy; and would be able to provide incentives and disincentives for the future status negotiations and the period following them. The importance of formulating such incentives and disincentives would also apply to Belgrade.

66. OSCE should continue and hopefully enhance its capacity-building efforts, together with the Council of Europe and other relevant organizations. A continued international role will be required within the areas of police and justice, primarily with a monitoring function. The EU and OSCE both have experience in these areas and should assume responsibility for these activities. Discussions concerning the handover of United Nations police responsibilities should be initiated with a view to implementing such a transfer in 2005.

67. KFOR would have to maintain a presence required to ensure a safe and secure environment. There has been a widely held view that NATO could restructure and reduce its personnel after the elections in October. However, the most difficult period ahead of us is not related to the elections or the formation of a new government. It is rather the moment when the future status issue is put on the table that the risk of turbulence will be most acute. It is therefore important that NATO maintain an adequate force level in order to deter and handle possible violence at that juncture. If reductions take place prematurely, the risk of violence will increase — putting an orderly process at serious risk.

Broader international community

68. Finally, the constant and strong support of the Security Council and the Contact Group will be essential as we approach crucial stages and the end game in Kosovo. The present focus of the Contact Group must be maintained in support of efforts on the ground. Without this engagement, it will not be possible to keep the politicians to their commitment and move the process forward in an orderly and steady way.

69. It is therefore important to enter into a closer dialogue between all the international actors engaged in Kosovo in order to make sure that a new strategic approach can be elaborated, agreed upon and implemented. This will require high-level attention and dedicated resources. UNMIK will not be able to mobilize the strength, credibility and resources required for carrying out its responsibilities without the strong and unified support of the broader international community. Each component of the international community will have a critical role to play. The price for sporadic interest will be high, and the price for fragmentation will be even higher. A more concerted and coordinated engagement is therefore urgently required to ensure that the international community has the unity of purpose and stamina

required. To this end, a mechanism should be established to ensure regular high-level contacts between all stakeholders in key capitals and headquarters.

Timing

70. With regard to the timing, the following preliminary outline could be envisaged: the mid-2005 comprehensive review is essentially fixed. In order to maintain pressure, measure progress made in priority standards and adjust future work, there could be three intermediate reviews led by the Special Representative of the Secretary-General on the basis of the new strategy, leading to the more comprehensive mid-2005 review. The first could take place as soon as possible after the arrival of the new Special Representative of the Secretary-General (well before the elections), enabling him to have a direct impact on the process from the outset. Subsequent reviews would take place in January 2005, to consider the performance of the new government, and in April 2005, to assess the situation and promote further progress required before the mid-2005 review. The full participation and support of the Contact Group in this process will be crucial. The Special Representative of the Secretary-General would report his findings to the Secretary-General, who would provide his assessments to the Security Council for its review. In parallel, the United Nations would this autumn begin discreet discussions at a high level on political issues related to the new and comprehensive strategy. By mid-2005, plans for a more fundamental restructuring of the international community would also be ready for implementation. If negotiations on the future status started in the second half of 2005, the United Nations should aim to hand over its responsibilities and terminate its present mission.

Brussels, 15 July 2004

Terms of reference for a political assessment

Composition. Team leader, Ambassador Kai Eide (Norway); Department of Peacekeeping Operations, Nannette Ahmed; Department of Political Affairs, Oleksandr Matsuka; Office of Legal Affairs, Daphna Shraga; and United Nations Interim Administration Mission in Kosovo (UNMIK), Petr Ivantsov.

Purpose. As indicated in the report of the Secretary-General on UNMIK of 30 April 2004 (S/2004/348), a political review of the policies and practices of all actors would be conducted as part of an assessment of the implications of the violent events that took place in March 2004, and a way forward would be suggested, in accordance with resolution 1244 (1999).

Scope. In the light of the responsibility of the United Nations in Kosovo under resolution 1244 (1999), including the provision of an interim administration, to facilitate a political process designed to determine Kosovo's future status and to implement an eventual political settlement, the team would review:

- The overall political environment in Kosovo and Belgrade
- The current policies and practices of all actors, including recent initiatives
- The relations among and roles of key actors involved in the political process
- The implications arising from the implementation of the existing strategy
- Other relevant issues related to the political process in Kosovo

UNMIK and the United Nations office in Belgrade would provide the team with all pertinent information and records as well as full and timely access to relevant persons and logistical support.

Time frame. The team would initially meet with relevant Headquarters officials before travelling to Kosovo, Belgrade, Brussels, Vienna and other capitals as needed. Member States and regional organizations would be consulted as appropriate. The team should complete its travel and drafting of the report as far as possible by the end of June.

Findings, recommendations and reporting. The team will prepare a comprehensive report analysing the current policies and practices, including the overall state of play in the political process and the interim administration, in accordance with resolution 1244 (1999). The findings and recommendations of the team will be submitted to the Secretary-General after consultations with the Department of Peacekeeping Operations, the Department of Political Affairs, the Office of Legal Affairs and UNMIK.

9 June 2004

Annex II

The way forward in Kosovo

Recommendations of the Secretary-General

1. As stated in my report to the Security Council on the United Nations Interim Administration Mission in Kosovo (UNMIK) (S/2004/613), following the events of March, I requested that a comprehensive review of the policies and practices of all actors in Kosovo (Serbia and Montenegro) be conducted and that options and recommendations be provided as a basis for further thinking on the way forward, in accordance with Security Council resolution 1244 (1999). Ambassador Kai Eide of Norway, whom I asked to conduct the review, submitted his assessment and recommendations for my consideration (see the enclosure to annex I). In his excellent report he outlined a comprehensive and integrated strategy that provides a basis to take us from the present into the process that will determine the future status of Kosovo. On 6 August, I conveyed a copy of the report to the President of the Security Council, with a request that it be brought to the attention of the members of the Council. I also stated that I was considering the recommendations contained in the report and that, in due course, I would revert to the Council with my recommendations after appropriate consultations, including with my Special Representative for Kosovo, Søren Jessen-Petersen.

2. Consultations with key Member States — the Contact Group plus the other European members of the Security Council — as well as the leadership of our partner organizations in Kosovo, the European Union, the Organization for Security and Cooperation in Europe (OSCE) and the North Atlantic Treaty Organization (NATO), were held on 20 September. We felt that those constructive meetings resulted in a general understanding of and support for an integrated strategy for the way forward in Kosovo from now to mid-2005 and in preparation for the future status process. There was broad agreement on the need to focus on the economy and on security, the need to engage with Belgrade and to bring the Kosovo Serbs into the process, and the importance of the standards process. There was also broad support for a subregional approach that would not focus exclusively on Kosovo. My Special Representative has also consulted with the parties on the ground.

3. I would like to emphasize that all processes in Kosovo must remain within the parameters of Security Council resolution 1244 (1999). In order to move beyond the current situation, we find it is essential that a comprehensive and integrated strategy be put in place to take us into the future status process based on a decision by the Security Council. At that time, the international community will need to be prepared and the United Nations will lead the preparations in coordination with key Member States and partner organizations.

4. Such an integrated strategy includes several main components: strengthening current efforts to deal with the causes and consequences of the March violence; improving dialogue at all levels; initiating a more comprehensive dialogue with Belgrade; recalibrating the standards policy; transferring further competences to the Provisional Institutions of Self-Government; increasing accountability of the Provisional Institutions; increasing oversight and intervention, as necessary, by UNMIK; enhancing capacity-building for the Provisional Institutions; implementing a stronger economic development policy with short- and long-term measures; and

realigning and streamlining UNMIK. My Special Representative has already taken significant initiatives while moving forward with the integrated strategy.

5. Achieving progress on the eight standards remains the basis of our policy, and this process be carried out in a dynamic and priority-based way within the overall framework of the integrated strategy in order to give momentum and direction to the political process. The Provisional Institutions must make substantial progress on meeting the standards in order to move forward. I must emphasize that all the standards are important. The focus of this refined policy is not to diminish any of the eight standards but to focus on priority areas. We should bear in mind that the standards are of value in and of themselves. Achieving the standards will not only lead to a qualitative change in society in Kosovo, but will also provide a political perspective for Kosovo within Europe. UNMIK will lead the reviews of progress achieved in implementing the standards by providing quarterly technical assessments, which are discussed with the Provisional Institutions and local representatives of the Contact Group. These technical assessments provide the basis for the political assessments contained in my reports to the Security Council that focus on priority actions within each standard considered necessary to facilitate orderly future status discussions, to contribute to ensuring the sustainability of an eventual political settlement, to further regional and European integration efforts and to ensure measures crucial for security and the inclusion of all communities in Kosovo. A comprehensive review may be conducted in mid-2005 on the basis of which the Security Council will determine whether to initiate the political process leading to a determination of the future status of Kosovo.

6. Another element of the integrated strategy is the transfer to the Provisional Institutions of those additional competencies which are not inherent attributes of sovereignty. We must also take into account reserved powers and responsibilities in areas of key importance for the implementation of the mandate of the international civil presence. In this regard, I would recall that, in accordance with resolution 1244 (1999), my Special Representative is vested with full authority and accountability for the implementation of the duties and responsibilities of the international civil presence. This ultimate authority cannot be delegated or transferred. UNMIK has undertaken a comprehensive review of the competencies it currently manages and has identified a number of competencies that do not impinge on sovereignty that may be transferred to the Provisional Institutions. UNMIK has also identified areas of enhanced operational involvement of the Provisional Institutions in certain reserved fields.

7. This transfer policy is strongly linked to the need for greater accountability and responsibility of the Provisional Institutions, which must ensure the delivery of essential services to all communities. The representatives of the Provisional Institutions, and in particular the political leaders of the majority community, are responsible for demonstrating that they will exercise their powers and responsibilities for the benefit of all people in Kosovo. This requires that all communities actively and meaningfully participate in the Provisional Institutions. In order to further this process, there is a need to build additional capacities within the Provisional Institutions. A more coherent and ambitious capacity-building policy will therefore be essential, and action by UNMIK in this regard is already under way.

8. Furthermore, the transfer policy outlined above cannot work without greater accountability of the Provisional Institutions and a robust oversight, intervention and sanctioning policy implemented by UNMIK. This requires that the Provisional Institutions accept that the transfer of further competencies is necessarily coupled with a greater degree of oversight and that they cooperate with UNMIK in this regard. In addition, UNMIK is putting in place more effective mechanisms for oversight and remedial interventions to ensure the full implementation of resolution 1244 (1999) and compliance with the Constitutional Framework and applicable legislation.

9. Progress on the reform of local government is essential. Active steps will be necessary to ensure consensus on the way forward and to begin implementation. As requested by the Council, I will in due course submit recommendations on possible new institutional arrangements for more effective local government through the devolution of central non-reserved responsibilities to local authorities and communities in Kosovo.

10. We also cannot lose sight of the fact that, despite some progress, much remains to be done in response to the violence that occurred in March. It is important to ensure sustained action to deal with the consequences and causes of the March events by creating institutions that are responsive to those needs and by ensuring the active engagement of the leaders and people of Kosovo for a multi-ethnic society. The focus on priority actions within the standards that relate to the causes of that violence will help to ensure that the consequences are addressed. Current efforts — through action by the Provisional Institutions of Self-Government, with the support of UNMIK and the Kosovo Force (KFOR) — aimed at ensuring the prosecution of those responsible, the improvement of security and the reconstruction of destroyed homes and religious sites must be reinforced. Furthermore, the conditions necessary for the safe and sustainable return of those newly displaced, as well as those displaced for a number of years, need to be put in place. UNMIK will work with local partners to ensure the continuation of improved security and freedom of movement, which are key factors needed for accelerating the return of displaced persons to Kosovo.

11. While security underlies all other activities in Kosovo, revitalization of the economy remains an overriding concern. Economic development should improve not only general social and economic conditions, but also the social context for security and stability. A midterm and long-term economic strategy must be complemented by effective short-term measures. I call upon the European Union urgently to design and implement an economic development strategy and ensure that there is a regional perspective for the economic development of Kosovo.

12. Multi-channel dialogue is essential. There needs to be intensified dialogue between the communities in Kosovo as well as between Belgrade and Pristina. In addition, a more intense and comprehensive dialogue with Belgrade is being initiated, taking into account Belgrade's legitimate interest and concerns. Further, it is imperative to enhance the involvement of Kosovo in regional dialogue and initiatives if European standards are to be achieved.

13. Meanwhile, UNMIK is being streamlined and realigned now within the existing pillar structure to ensure a more concentrated effort and to focus on the key challenges and priorities. This could involve our partners in UNMIK — the European Union and OSCE — taking on additional competences (including

financial commitments) in different areas within UNMIK and strengthening their overall commitment. A more comprehensive restructuring of the international presence as a whole could be undertaken in 2005, based on the decisions of the Security Council and its priorities at that time. Furthermore, I call upon NATO to maintain the KFOR presence required to implement its responsibilities under resolution 1244 (1999), particularly to ensure a safe and secure environment, including with the provision of an adequate force level during the future status process and the implementation of an eventual political settlement.

14. Finally, I would like to emphasize that the unified and coordinated support of the broader international community, particularly that of key Member States, such as those in the Security Council and in the Contact Group, is essential for success in our common endeavour. While UNMIK and our key international partners play a central role in the implementation of the integrated strategy, it is the people of Kosovo from all communities and their representatives in the Provisional Institutions and political leaders that must work towards the goals set out in the strategy in their areas of responsibility and ensure that there is progress. Progress in all these aspects is essential for the success and sustainability of any future status process, and only if progress is sufficient will it be possible to consider moving gradually into talks on the future status of Kosovo.